

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE A2P SMS
ANTITRUST LITIGATION

MASTER FILE: 12 CV 2656 (AJN)

THIS DOCUMENT RELATES TO:
All actions

DECLARATION OF STEPHEN P. FITZELL

1. I am the General Counsel of United States Cellular Corporation ("U.S. Cellular") and I submit this declaration in support of U.S. Cellular's motion to dismiss the Complaint on the ground that the Court lacks personal jurisdiction over U.S. Cellular. The statements contained herein are based upon my personal knowledge and/or records regularly maintained in the course of U.S. Cellular's business. The statements contained herein are true and, if sworn as a witness, I could testify competently thereto.

2. I am an attorney in good standing licensed to practice law in Illinois since 1982. I have represented U.S. Cellular continuously since 1983 and have been its General Counsel since 2002. In addition to being its General Counsel, I am a partner at the law firm of Sidley Austin LLP.

3. U.S. Cellular is a regional provider of wireless service and products. It is incorporated under the laws of Delaware. Its principal place of business and corporate headquarters are located at 8410 West Bryn Mawr, Chicago, Illinois, 60631.

4. U.S. Cellular does not provide wireless service or have any business operations in the State of New York. It does not consent to personal jurisdiction over it or venue in the Southern District of New York.

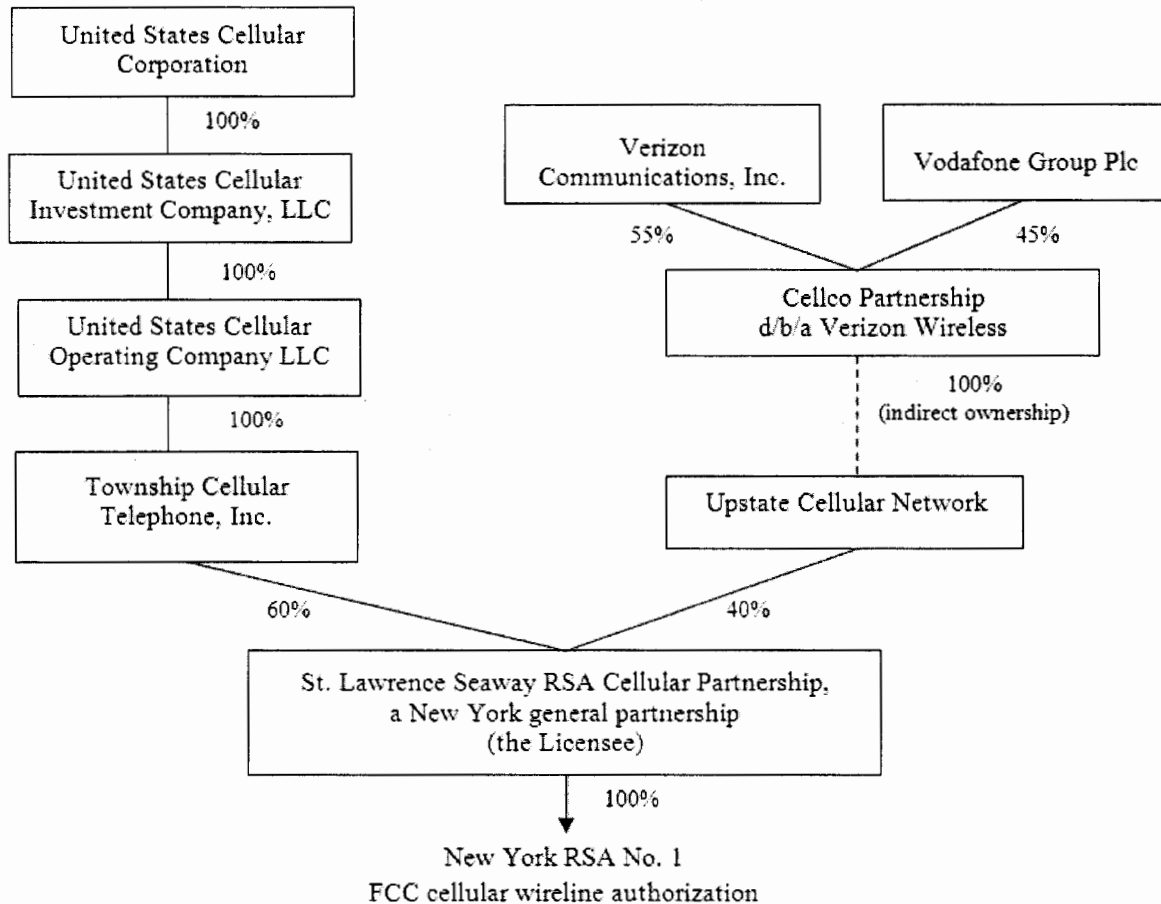
5. Like other wireless carriers, U.S. Cellular operates via retail stores, some of which are owned by the company and the rest by independent agents. About 400 stores are company owned and about 1,000 agent-owned. None of these approximately 1,400 stores are located within the State of New York. U.S. Cellular does not have any other business offices in the State of New York. It does not have an agent for service of process in the State of New York; does not own any real property in the State of New York; does not have any bank accounts in the State of New York; and does not maintain a telephone listing in the State of New York.

6. U.S. Cellular has approximately 8,400 employees. None are officed in the State of New York.

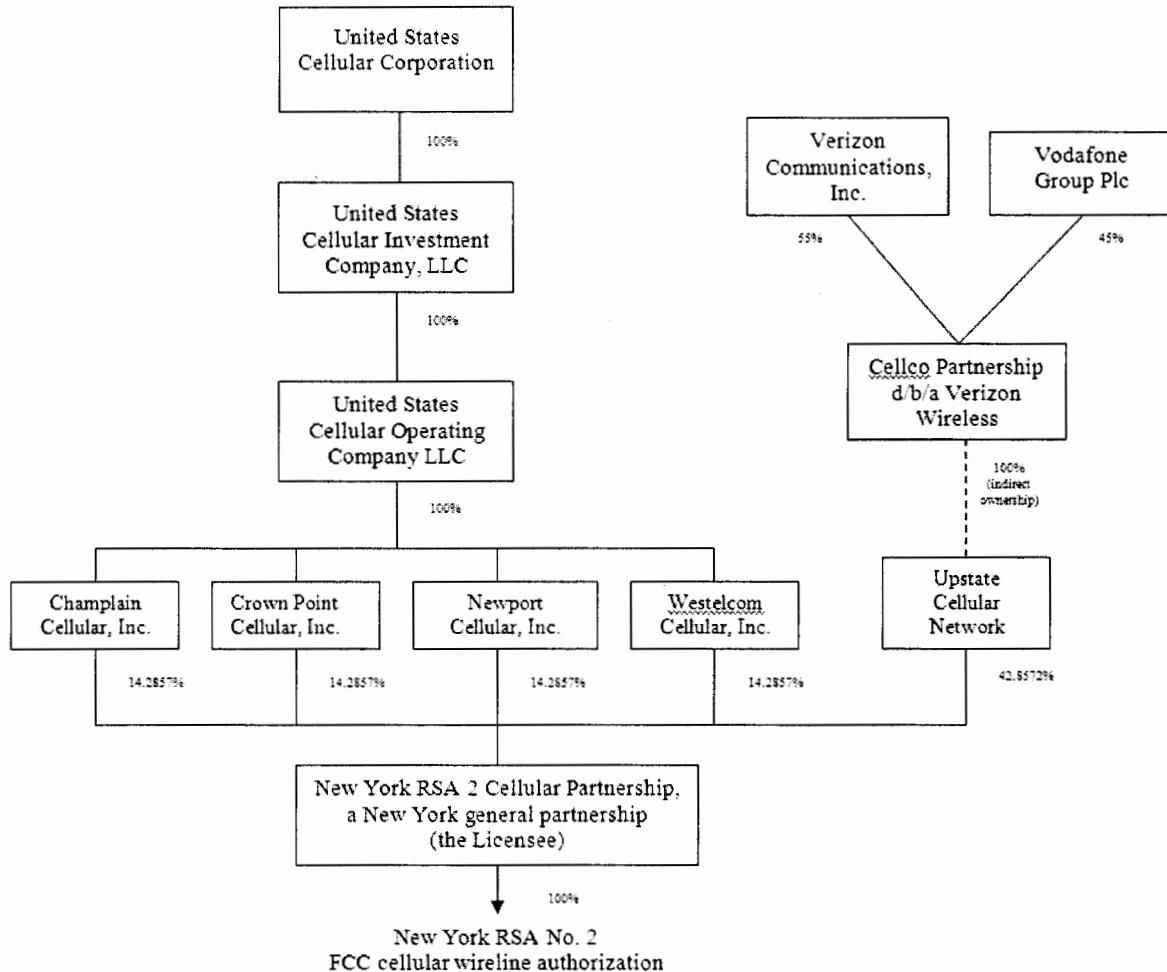
7. In order to provide wireless service, cell towers are necessary for the transmission of the customers' wireless signals. U.S. Cellular does not maintain any cell towers or other equipment in New York. Wireless service can only be provided pursuant to a license from the Federal Communications Commission (the "FCC"). A FCC wireless license authorizes service for only the specific geographic area covered by the license. None of U.S. Cellular's existing licenses authorize it to provide service within New York. As with all carriers, U.S. Cellular has roaming agreements that enable third party carriers to provide service to U.S. Cellular's customers traveling outside of U.S. Cellular's service areas.

8. U.S. Cellular has indirect investments via stock ownership in two entities that are partners in general partnerships that own FCC licenses for two markets in the State of New York, denominated by the FCC as New York RSA Nos. 1 and 2. U.S. Cellular has never conducted any operations or business pursuant to the licenses held by these partnerships. The wireless business for New York RSA Nos. 1 and 2 is managed by Verizon Wireless and branded as Verizon Wireless service.

9. A true and correct diagram reflecting U.S. Cellular's indirect interest New York RSA No. 1 is shown below:



10. A true and correct diagram reflecting U.S. Cellular's indirect interest New York RSA No. 2 is shown below:



11. U.S. Cellular does not solicit business in New York. U.S. Cellular advertising is directed to consumers in the markets where it has operations, none of which are in New York.

12. U.S. Cellular's website does not allow customers who provide a billing address outside of U.S. Cellular's service area to open an account online. When shopping for wireless plans and products on U.S. Cellular's website, visitors are prompted to enter their zip code. In

response to zip codes within any area for which U.S. Cellular does not provide wireless service, including the State of New York, U.S. Cellular's website informs visitors "We're sorry but we do not offer our products & services in this area. Please enter a different zip code or search by city/state." A true and accurate screenshot from U.S. Cellular's website, taken on July 11, 2012, after submitting a New York, New York zip code ("10007"), is shown below:

U.S. Cellular

FEEDBACK MY ACCOUNT STORE LOCATOR COVERAGE REBATES CART

PHONES & MORE PLANS OFFERS ENTERTAINMENT & APPS BUSINESS SUPPORT **rewards**

Enter Your Location

Please enter the zip code or city/state where you mainly plan on using your wireless service so we can give you the most accurate pricing and product information.

We're sorry but we do not offer our products & services in this area. Please enter a different zip code or search by city/state.

Zip Code: **SUBMIT**

[Enter location by City and State](#)

LIVE CHAT
NEED HELP PLACING YOUR ORDER?
ASSOCIATES ARE ONLINE

FREE ACTIVATION
ON MOST ONLINE ORDERS

FREE SHIPPING
EVERY DAY ON ALL
ONLINE ORDERS

Current Customers

Upgrade your phone, add services, change your plan or add a new line to your existing account:

LOG IN TO MY ACCOUNT

or give us a call at
1-888-944-9400
and we'll get you set up.

Not yet registered for My Account?
It's convenient and secure.
Manage your account online, anytime, anywhere, and enjoy the perks.

REGISTER NOW

Need Assistance?
Contact Us
Support
Store Locator
Coverage Maps
Rebate Center
Device Protection Claims
Return Policy

Shop
Phones
Plans
Offers
Tablets
Wireless Modems
Mobile Hotspots
Accessories

Current Customers
My Account
Redeem Points
Support
Send A Text Message
Browse All Apps
Voicemail Setup
Change Plan Or Phone

Rewards Program
Rewards
Earn & Redeem Reward Points
How to Enroll
FAQs
Why Switch?

Our Company
About Us
Press Room
Awards
Community Involvement
Events
Careers
Investor Relations

13. U.S. Cellular has approximately 6,000,000 customers. Approximately 400 U.S. Cellular customers have billing addresses in New York, which is less than 0.01% of U.S. Cellular's customers.

14. The U.S. Cellular employees knowledgeable about U.S. Cellular short codes practices, relationship with aggregators, and CTIA are centered in U.S. Cellular's headquarters in Chicago, IL. These include:

- Matthew Davidson, Product Manager, responsible for Premium Messaging and short codes
- Ronald Heron, Senior Manager, Product Management, works with CTIA on short and long codes issues
- Lindsay Gilbertson, Vendor Partner Manager, responsible for relationship with aggregators
- Leslie Bleke, Senior Manager Vendor Management, former Vendor Partner Manager responsible for relationship with aggregators
- Ryan Martin, Field Marketing Manager, former Product Manager for Premium Messaging and short codes
- Rick Strokes, Device Marketing Manager, former Product Manager for Premium Messaging and short codes

15. U.S. Cellular's documents relating to U.S. Cellular short codes practices, relationship with aggregators, and CTIA are primarily maintained in the Chicago headquarters. U.S. Cellular does not maintain any documents in the State of New York.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 31, 2012


Stephen P. Fitzell